

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20726

Application 30129 of Marlboro Square, Ltd.

6 Upper Newport Plaza, Newport Beach, CA 92660

filed on May 18, 1992, has been approved by the State Water Resources Control Board SUBJECT TO VESTED RIGHTS and to the limitations and conditions of this Permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:	Tributary to:
<u>Unnamed Stream</u>	<u>Alder Creek thence</u>
	<u>American River</u>

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
UNNAMED STORAGE RESERVOIR N 360,300 feet, E 2,244,700 feet California Coordinate System, Zone 2	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	7	9N	8E	MD

County of Sacramento

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acre
Wildlife Enhancement						
Recreational	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	7	9N	8E	MD	

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 20 acre-feet per annum to be collected from November 1 of each year to April 30 of the succeeding year. (0000005)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Complete application of the water to the authorized use shall be made by December 31, 1998. (0000009)

8. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

10. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

11. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

12. After the initial filling of the storage reservoir, permittee's right under this permit extends only to water necessary to keep the reservoir full by replacing water lost by evaporation and seepage and to refill if emptied for necessary maintenance or repair. Such right shall be exercised only during the authorized diversion season. (0000040)

13. This permit is subject to the continuing authority of the State Water Resources Control Board to reduce the amount of water named in the permit upon a finding by the Board that the amount is in excess of that reasonably needed to be held in storage for the authorized use. No action will be taken by the Board without prior notice to the owner and an opportunity for hearing. (0000042)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel, or provide other means satisfactory to the State Water Resources Control Board, in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe or alternative facility has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee. (0000063)

16. Prior to commencement of any construction, the permittee shall:

- a) Complete a final detailed wetland mitigation plan and submit to the Department of Fish and Game for approval. The final plan shall include a dam design which will allow for preservation and maintenance of the downstream wetland; (0400500)
(0450500)
- b) Develop and, on approval from the Chief of the Division of Water Rights, implement an erosion control plan in order to prevent soil movement from disturbed surface areas into downstream wetlands; (0490500)
- c) Fence the riparian corridor and jurisdictional wetlands from a point no greater than 15 feet from the downstream toe of the existing dam and post signs that indicate "protected areas, do not enter"; (0400500)
- d) Comply with all conditions under the U.S. Army Corps of Engineers Nationwide 26 Permit, and (0450500)
- e) Retain an archaeologist specializing in historic mining identification who shall prepare an amended site survey for the California Archaeological Inventory. The survey of historic features shall be documented by preparation of:
 - ° a map showing the locations of the aforementioned historic mining activity features along with estimations of age and type of feature; and
 - ° a voice-over video tape that shall be deposited at the Regional Office of State Historic Preservation.

The archeologist shall also supervise and monitor earthmoving activities during the initial stages of construction. The permittee shall ensure that any buried archaeological materials are identified in a timely manner, and stop work in the area of any discovery until the resources have been archaeologically evaluated. (0380500)

17. During reconstruction of the dam, the permittee shall:
- a) limit reconstruction activities to a period between May 1 and October 1;
 - b) limit dam reconstruction activities to the inundation zone and within 15 feet of the downstream toe of the existing dam; and
 - c) not remove any vegetation within the riparian corridor or jurisdictional wetlands downstream of the dam. (0120500)
18. After completion of the dam reconstruction and filling of the reservoir, the permittee shall:
- a) immediately seed or plant and maintain all disturbed surfaces with a mixture of vegetation natural to the downstream wetlands and riparian corridor. Vegetation shall consist of, but not limited to, Fremont's cottonwood and arroyo willow. A minimum of 10 trees, bare root, shall be planted in order to compensate for loss of mature vegetation within the inundation zone; and
 - b) preserve and maintain all created and jurisdictional wetlands in perpetuity as well as protect them from any disturbance resulting from the Willow Springs Project. (0400500)
19. Permittee shall implement the final wetlands mitigation plan as approved by Department of Fish and Game and submit to the Chief of the Division of Water Rights results of the annual monitoring of created wetlands in accordance with the Final Wetland Mitigation Plan for a period of five years after completion of the dam or until the wetland vegetation is successfully established as determined by the Chief of the Division of Water Rights. (0450500)
(0490500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **APRIL 28 1994**

STATE WATER RESOURCES CONTROL BOARD

Roger Schuman
for Chief, Division of Water Rights